

**ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI**

6. **OA-47/2019**

**Mrs. Bharati Konwar Devi**

applicant

..... Applicant

By legal practitioners for the

Ashim Chamuah  
PK Bhuyan  
SD Roy  
D. Das

**-Versus-**

**UOI & Others**

..... Respondents

By legal practitioner for respondents  
P Sharma

**Date of hearing : 13.10.2023**

**Date of order : 13.10.2023**

**CORAM:**

**HON`BLE MR. JUSTICE SUDHIR MITTAL, MEMBER (J)  
HON`BLE AIR MSHL BALAKRISHNAN SURESH, MEMBER (A)**

**ORDER**

**(Sudhir Mittal, J)**

The applicant seeks grant of family pension after the death of her husband Pradip Kr. Singh. Pradip Kr. Singh was serving in the Indian Navy and was in receipt of pension after discharge.

2. Facts of the case have been noted in detail in order dated 27.04.2022. The relevant ones are that Pradip Kumar Singh was married with one Prabha Ilya @ Pratima Devi and she has been shown as his wife in Service records. Admittedly, she ran away with Respondent No.6 and had a child with him. The applicant married Pradip Kumar Singh on 10.01.2007 allegedly without knowledge of his first marriage. He passed away on 2<sup>nd</sup> August, 2007, whereafter the claim for grant of family

pension was made, but was rejected on the ground that her marriage was not legally valid.

3. By order dated 27.04.2022, this Court directed the Registrar of this Bench to conduct an inquiry on the following points: -

- “(i) Whether the marriage between the applicant and late Pradip Kumar Singh was solemnized on 10.01.2007 ?
- (ii) Whether Respondent No.5 had abandoned Pradip Kumar Singh after his retirement and whether it is a fact that she is staying with Respondent No.6 and his wife and whether they have a child in their wedlock ?
- (iii) Whether any proceedings were held for dissolution of marriage between Pradip Kumar Singh and Respondent No.5 and whether any decree of divorce or dissolution of marriage had been passed ?
- (iv) Any other relevant issue that may arise in this regard.”

4. The inquiry has been conducted and the report dated 06<sup>th</sup> September, 2022 is on record. According to the said report, there is oral evidence of marriage of the applicant with Pradip Kr. Singh. There is also evidence of the fact that Prabha Ilya @ Pratima Devi was residing with Respondent No.6 and had given birth to a son from him.

5. The Inquiry Officer has further reported that there is no evidence of dissolution of marriage between Prabha Ilya @ Pratima Devi and Pradip Kr. Singh.

6. In view of the aforementioned factual position, learned Counsel for the applicant has argued that the applicant is the victim of circumstances. She married late Pradip Kr Singh without knowledge of his earlier marriage. Thus, a fraud was committed by late Pradip Kr. Singh for which the applicant can not be penalized. The fact that the applicant solemnised marriage with Pradip Kr. Singh is not disputed and thus, a sympathetic view may be taken. Reliance has been placed upon the Judgment of Hon'ble Supreme Court in Badshah Vs. Urmila Badshah Godse and another, reported in (2014) 1 SCC 188. It has also been submitted that Prabha Ilya @ Pratima Devi has passed away in the year 2020 and this fact had been admitted by Respondent No.6.

7. Learned Counsel for the respondents has submitted that the marriage of the applicant with late Pradip Kr.Singh was no marriage in

the eyes of law as it was solemnized during the currency of the marriage of late Pradip Kr.Singh with Prabha Ilya @ Pratima Devi. Thus, the applicant can not be granted any relief.

8. It is clear that the applicant's marriage with Late Pradip Kr. Singh took place while he was married with Prabha Ilya @ Pratima Devi. The said marriage had not been dissolved by decree of divorce nor she was dead on the date of remarriage. Thus, according to Section 11 of the Hindu Marriage Act, 1955, it is a void marriage and may be declared as such if a petition is presented by either party thereto. A void marriage is no marriage in the eyes of law. It is stillborn and has not come into existence at all and this fact can be taken notice of by a competent Court/ Authority even without a decree of declaration. In this view of the matter, the submissions made by the learned Counsel for the applicant have to be rejected as there is no exception to the rule. The judgment of Badshah (Supra) is not applicable as the said case is one arising under Section 125 of the Code Criminal Procedure. The said provision was interpreted purposively so as to give effect to the purpose of enactment of the provision. The provision has been enacted for addressing the mischief of husbands denying maintenance to their wives without any valid reason and thus *Heydon* rule was invoked. That is not the situation in the present case. The law is clear and unambiguous and a Court of Law is bound by it. No question of interpretation arises in the instant case.

9. In view of the above reasons, the Original Application has no merit and is dismissed.

**(Air Mshl Balakrishnan Suresh)**  
**MEMBER (A)**

**(Justice Sudhir Mittal)**  
**MEMBER (J)**

mc/gm